

MOLLIE STONE'S

MARKETS

April 8, 2003

06-4219518
AMS

The Honorable Ann Veneman
Secretary, U.S. Department of Agriculture
Country of Origin Labeling Program
Agricultural Marketing Service
Stop 0249 Room 2092-S
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Country of Origin Labeling Program

Dear Secretary Veneman:

On behalf of Mollie Stone's Markets, I am pleased to respond to your request for comments on the U.S. Department of Agriculture's (USDA's) "Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts" (hereinafter Voluntary COL Guidelines).

As a food retailer, the law charges my Company, Mollie Stone's Markets, with the substantial responsibility of informing my customers of the country of origin of all non-processed beef, pork, lamb, fresh and frozen fruits and vegetables, fresh and frozen seafood (for which we must also identify the method of production), and peanuts that are sold in our retail stores. The country of origin declaration as defined by the law extends back to the farm or ranch on which the product originated. Therefore, we must depend on information that is known only to our suppliers in order to fulfill our obligations under the law and to our customers. Accordingly, we urge USDA to propose regulations quickly that will ensure that all suppliers that impact the country of origin determination – starting at the farm or ranch at which the product originates – are held responsible for giving retailers complete, accurate and verifiable information. These and our other recommendations are explained more fully below.

My partner and I started Mollie Stones with one store in 1986 and have built up our company to seven stores in the last 17 years. We have unionized employees and the extra cost associated with this intense labeling program takes us further and further away from competing with the large chains and the non union operators. We are proud of our company and we have used country of origin in our produce department for many years. We know the pitfalls and completely understand the difficulties.



As you develop regulations, we urge you to address the matters indicated below.

- **Suppliers Must Be Held Accountable for Providing Retailers with Accurate and Verifiable Country of Origin Information**

The law requires retailers to provide consumers with information that retailers can only obtain from their suppliers. Given this fact, the law also holds suppliers accountable for providing information to retailers.

USDA's Voluntary COL Guidelines properly recognize that the entire food chain must bear responsibility for a country of origin labeling program if consumers are to receive accurate country of origin information as Congress defined it. In furtherance of this principle, the Voluntary COL Guidelines state that producers, growers, handlers, packers, processors and importers must maintain auditable records documenting the origin of covered commodities and that these persons must make country of origin information available to retailers. USDA's regulations must also recognize the obligations that these parties share and must further hold them accountable through stringent enforcement measures to ensure that retailers have accurate information to provide to consumers.

- **Retain Flexible Methods of Country of Origin Notification**

The statute allows country of origin information to be provided by means of a "label, stamp, mark, placard or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers." The Guidelines generally follow the statute and further provide that the information must be "conspicuous," and either typed, printed or handwritten.

We urge the Secretary to maintain flexibility in the methods of notification. Furthermore, USDA should expressly recognize that country of origin information can be considered "conspicuous" even if it is a label placed on the back of a random weight package. The country of origin declaration for hamburger as explained in the Voluntary COL Guidelines could cover a substantial amount of the product if it was required to appear on the front of the package with all of the other federally mandated labeling. (Some counties limit the amount of package surface that may be covered to avoid concealing products from consumers.) Accordingly, provided that the information is presented to consumers in a manner in which they can readily find it, the information should be considered conspicuous and our obligation met. Indeed, since the statute can be satisfied by providing a sign at the store, to the extent that the information is affixed anywhere on the package, it will be available to the consumer for a greater period of time.



Do Not Require Retailers To Keep Country of Origin Records for Two Years in Every Retail Store

The Voluntary COL Guidelines require every person engaged in the business of supplying a covered commodity for retail sale to keep records on the country of origin of the covered commodity for two years. Basic records must be kept at store level; contracts and other more detailed records may be kept at warehouses or corporate headquarters.

Retailers should not be required to keep two years worth of records for covered commodities at store level. Most covered commodities will be sold and consumed well before two years has elapsed, thus retaining records for this period of time at the retail level will serve no useful purpose while incurring substantial cost.

Records required should be reasonable. Retailers have no control over the country of origin determination, which must be made well before the food product reaches the retail grocer's control. Accordingly, the records retailers are required to keep must only connect the covered commodity to those who made the country of origin determination.

USDA should continue to allow records to be kept in hard format or electronic version.

- Exempt Food Service Areas of Grocery Stores

In keeping with the current state of the industry, Mollie Stone's Markets include a variety of options for satisfying consumer demands. In addition to the customary grocery sections, such as produce, meat and general grocery, Mollie Stone's offers customers prepared foods at delis, salad bars, through catering, and other venues.

The statute exempts food service establishments from the country of origin labeling program. The Guidelines state that the term "food service establishment" includes salad bars, delis and other prepared food enterprises that provide ready-to-eat foods that are consumed either on or outside of the retailer's premises. We urge USDA to continue to recognize that foods provided from these venues within the retail store are properly considered subject to the statute's exemption from country of origin labeling for food service establishments. Trays of cut vegetables from our catering operations, fruit salad sold at delis or throughout the store, and foods provided at our salad bars are all prepared at food service.



The statute requires retailers to provide consumers with country of origin information on covered commodities at the final point of retail sale. In the Voluntary COL Guidelines, USDA interprets this to require the retailer to provide country of origin information on the sale vehicle, such as the internet site. The basis for this is the "Agency's belief that consumers must be made aware of the country of origin of the covered commodity before the purchase is made."

Sincerely,

A handwritten signature in black ink, appearing to read "D. M. Bennett".

David M. Bennett
Owner
Mollie Stone's Markets